

UNITED STATES DISTRICT COURT  
DISTRICT OF PUERTO RICO

NANCY COLON ADORNO, et al.,

Plaintiffs,

v.

SOCIEDAD ESPAÑOLA DE AUXILIO  
MUTUO Y BENEFICENCIA DE PUERTO  
RICO, et al.,

Defendants.

Civil No. 03-1829(JAF)

(Consolidated with  
04-1562(JAF))

**O R D E R**

Defendants James W. Davison and his conjugal partnership move to dismiss Plaintiffs' complaint, arguing that in violation of Federal Rule of Civil Procedure 4(m), service was not effected within 120 days after Plaintiffs' filing of the complaint. Docket Document No. 75. Plaintiffs argue that the delay in serving the summons and complaint upon Defendant Davison was for good cause, as Defendant's full name and current address did not become available to them until after the 120-day period. Docket Document No. 83. Plaintiffs further argue we should not dismiss the complaint because they quickly sought to remedy their failure after successfully locating Defendant Davison on March 4, 2004. Id.<sup>1</sup> Finally, Plaintiffs argue

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<sup>1</sup>On March 15, 2004, Plaintiffs attempted to amend the complaint to reflect information regarding Defendant Davison's identity and location, and successfully amended the complaint on June 14, 2004, subsequent to our approval. Docket Document Nos. 23, 38, 40. The summons and complaint were served and returned executed within

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1 that as dismissal under Rule 4(m) is without prejudice, and as the  
2 present case is rapidly maturing, we should deny Defendant Davison's  
3 motion in the interest of judicial economy. Id.

4 We agree with Plaintiffs that the most efficient course at this  
5 time is to deny Defendant Davison's motion to dismiss. Rule 4(m)  
6 makes an allowance for when plaintiffs are able to demonstrate good  
7 cause for their failure to timely effect service, and we find that  
8 the record supports Plaintiffs' justification. FED. R. CIV. P. 4(m)  
9 Furthermore, as dismissal under Rule 4(m) is without prejudice, and  
10 as this case has matured greatly since the time period discussed in  
11 this order, no purpose would be served by granting Defendant  
12 Davison's motion.

13 For the foregoing reasons, Defendant Davison's motion to dismiss  
14 is **DENIED**.

15 **IT IS SO ORDERED.**

16 San Juan, Puerto Rico, this 12<sup>th</sup> day of August, 2005.

17 S/José Antonio Fusté  
18 JOSE ANTONIO FUSTE  
19 Chief U.S. District Judge

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fifteen days. Docket Document No. 47.